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Policies and Procedures

Title: Temporary Limited Employment
in the Competitive Service

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This DIRECTIVE provides the legal and regulatory requirements, policy and procedures for making temporary appointments in the competitive service, including "provisional appointments."

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1. REFERENCES

DIRECTIVE 417.3 - Term Employment. Term employment is also of a temporary nature, but allows the employee greater employee benefits. The nature and duration of the work to be done will determine if a term appointment or a temporary appointment is more appropriate.

DIRECTIVE 412.2 - Appointment and Orientation of New Employees

2. ABBREVIATIONS

- CFR - Code of Federal Regulations
- FPM - Federal Personnel Manual
- OPM - Office of Personnel Management
- PD - Personnel Division
- POB - Personnel Operations Branch, Personnel Division
- RPL - Reemployment Priority List

3. DEFINITIONS

Temporary limited appointment is a nonstatus appointment to a competitive service position for a specified period not to exceed 1 year. The appointment may be extended 1 year at a time, up to a total of 4 years.

Provisional appointment is a temporary appointment made to fill a continuing position leading to a permanent appointment when the position must be filled more quickly than would be possible under the procedures required for nontemporary appointment or when such a provisional appointment is a requirement of the applicable appointing authority.

Nonstatus appointment is an appointment which does not lead to a career or career-conditional appointment without further competition, unless the temporary appointing authority specifically provides for such noncompetitive action.

Reemployment priority list is the mechanism USDA and other Federal agencies use to give reemployment consideration to employees of the agency who have been separated by reduction in force or because of compensable injury when their recovery takes more than 1 year.

4. FORM

- ARS-416 - Conditions of Temporary Limited Employment
- SF 50-B - Notification of Personnel Action

5. AUTHORITIES

- FPM Chapter 296
- FPM Chapter 316, Subchapter 2
- 5 CFR Part 316

6. POLICY

It is ARS policy that all temporary limited appointments will be made in accordance with regulations and the provisions outlined in this DIRECTIVE.

7. USE OF TEMPORARY APPOINTMENTS

Temporary limited appointments are intended to meet legitimate nonpermanent staffing needs.

Appropriate use for temporary appointments include:

- Temporarily increasing staff to meet a workload peak;
- Staffing continuing positions when future funding and workload levels are uncertain or when it is anticipated that funding levels will be reduced or the activity will be reorganized;
- Filling permanent positions on a temporary basis in order to save them for eventual incumbency by permanent employees expected to be displaced from other parts of the organization;
- Filling vacancies which occur in activities under study for possible contracting out.

Inappropriate use of temporary appointments include:

- Hiring temporary employees to avoid the costs of employee benefits or ceilings on permanent employment levels;
- Using temporary employment as a "tryout" or trial period prior to permanent appointment (except where specifically authorized by OPM in appointing authorities for severely disabled or mentally restored employees);
- Circumventing the competitive examining process by appointing an individual on a temporary basis because the individual is not within reach for permanent appointment;
- Refilling positions which, over the preceding 4 years, have been filled continuously on a temporary basis.

8. FILLING POSITIONS BY TEMPORARY APPOINTMENT

Competitive Procedures.

Temporary positions are in the competitive service, and as such must be filled through competitive procedures. The selection for a temporary position is made by the selecting official from a PD or OPM list (certificate) of candidates. PD has delegated authority to conduct recruitment to fill temporary positions in the United States and overseas at GS-12 and below and Federal Wage Grade positions. All other competitive service temporary positions in ARS are filled by eligible candidates whose names are on file with OPM. Candidates on certificates have been rated by PD or OPM against established OPM qualification requirements (standards) for the kind of position to be filled and any special requirements (knowledge, skills, and/or abilities) of the specific position. The length of time given for persons to apply to a vacancy announcement issued by PD varies depending on the perceived availability of potential candidates for the temporary position. In no case is the open period for applying to such an announcement less than 3 days. Eligible veterans are placed at the top of the PD or OPM certificate for first consideration.

Exceptions to Competitive Procedures.

Noncompetitive procedures may be used for the temporary employment of: a member of the faculty of an accredited college or university to a temporary position of a scientific, professional, or instructional nature at GS-15 and below (or equivalent); former career or career-conditional employees with reinstatement

rights to the Federal service; former Peace Corps and VISTA volunteers; certain former employees of the Administrative Office of the U.S. Courts; certain working family members of U.S. Government military and civilian employees returning from overseas; certain present and former career Foreign Service employees; former Canal Zone Merit System and Panama Canal Employment System employees; veterans eligible for Veterans Readjustment Appointments; disabled veterans having a compensable service-connected disability of 30 percent or more, and certain former legislative and judicial branch employees.

Citizenship.

Since competitive service regulations cover temporary limited appointments, individuals appointed to these positions must be citizens of the United States.

9. LIMITATIONS ON MAKING TEMPORARY APPOINTMENTS

There are some specific limitations in filling positions by temporary appointment:

- The filling of a position by temporary limited appointment is subject to the employment restrictions of the USDA RPL. This means, in most cases, an outside applicant may not be hired in lieu of a qualified and available RPL eligible candidate.

Exception: RPL requirements do not apply to temporary appointments of not-to-exceed 700-hours duration for individuals with severe physical disabilities or who have been restored to mental health after treatment for a mental or emotional disorder.

- If the temporary limited appointment falls entirely within the summer employment period of May 12 through September 30, procedures for the filling of summer jobs must be followed.

Exception: Exceptions to this requirement are:

- Not-to-exceed 700-hour appointments of individuals with severe physical disabilities or who have been restored to mental health after treatment for a mental or emotional disorder;
- Appointments based on noncompetitive eligibility, as discussed in 8 under second paragraph above;

- Certain "special need" appointments, as described in 12 below.

10. SPECIAL CONDITIONS/DOCUMENTATION OF TEMPORARY LIMITED EMPLOYMENT

There are special conditions associated with temporary limited appointments about which the employee must be informed.

- An individual appointed under the temporary appointing authority is asked to sign an ARS-416 acknowledging he/she understands the conditions of the appointment. This form is completed at the time the employee is provided orientation as covered by Directive 412.2. The ARS-416 is filed on the left side of the employee's Official Personnel Folder and the employee is given a copy. The form also includes information on employee benefits for temporary employees. ARS-416 is shown as Exhibit 1.
- In addition, a standard remark appears on the SF 50-B at the time of initial temporary appointment and each time the employee's service is extended. This statement reads:

"Temporary employees serve under appointments limited to 1 year or less and are subject to termination at any time without use of adverse action or reduction-in-force procedures. A temporary appointment does not confer eligibility to be promoted or reassigned to other positions, or the ability to be noncompetitively converted to a career-conditional appointment."

- Also documented on the SF 50-B, at the time of the initial temporary appointment and each time an employee is extended, is a statement giving the reason why the appointment is being made on a temporary basis, i.e., why the Agency expects there will be no permanent need for the employee.

11. EXTENSION OF TEMPORARY LIMITED APPOINTMENTS

A temporary limited appointment may be extended when:

- The need for the temporary employee still meets the criteria for temporary employment;
- The extension is to the same position, or another position appropriate for temporary appointment which has the same qualification requirements;
- The employee's service is substantially continuous, i.e., there has been no break in service in excess of 3 calendar days;
- With the extension, the temporary employee's service will not exceed a total of 4 years from the date of the initial temporary appointment. This 4-year limitation does not apply to the extended services of a reemployed annuitant.

NOTE: Previous service as a temporary employee does not preclude an individual from being considered for another temporary appointment.

12. TEMPORARY APPOINTMENT TO MEET A "SPECIAL NEED"

When there is a **critical** and **legitimate** need for the services of an employee which cannot be met by another appointing authority, a direct, noncompetitive "special need" temporary appointment may be appropriate. This authority can be used when there is a need to hire persons temporarily to assist in essential activities following a natural disaster. In rare situations, the authority can be used when the ARS Director of Personnel determines there is a critical need to fill a position on an interim basis pending completion of the competitive examining or security clearance process. A special need appointment:

- Is initially limited to 30 days duration to positions at GS-15 and below (or equivalent). The appointment may be extended for not more than an additional 30 days when continued employment is essential to ARS;
- May not be used to exceed a time limitation imposed by some other appointing authority;
- May not be used to employ an individual for more than a total of 60 days in a 12-month period.

13. PROVISIONAL APPOINTMENTS

In March 1991, OPM authorized agencies to designate certain temporary appointments as "provisional appointments" when the agency intends later to convert the employees to permanent appointments.

- Appointees are recruited to fill a continuing position from the outset with the intent that they will be converted from the temporary provisional appointment to a permanent appointment upon satisfactory completion of required licensure, clearance, or approval processes.
- Provisional appointments may also be made for the express purpose of conversion to permanent employment when the authority for the permanent appointment actually requires a preliminary or trial appointment. The most common examples are temporary appointments of veterans with compensable service-connected disabilities of 30 percent or more and 700-hour trial appointments of severely disabled individuals.
- Provisional appointments provide benefits, otherwise denied to most temporary employees, from the beginning of the appointment, rather than upon conversion to permanent employment. These benefits are:
 - Eligibility for coverage under the Federal Employees' Health Benefits Program, including payment of the Government contribution by the Agency, unlike the situation with other temporary employees who must pay the full cost of the premiums;
 - Eligibility for coverage under the Federal Employees' Group Life Insurance Program;
 - Coverage under the Federal Employees' Retirement System, including eligibility to participate in the Thrift Savings Program.
- Employees given provisional appointments are treated as nontemporary employees for reduction-in-force purposes and are in tenure group III.
- The SF 50-B for a provisional appointment contains the following remark:

"Appointment is on a provisional basis. You are eligible for retirement coverage and for health benefits and life insurance. If your performance is satisfactory, and you meet all legal, qualifications, and other applicable requirements, you may be converted to a nontemporary appointment before this appointment expires."

T. J. CLARK
Deputy Administrator
Administrative Management

Exhibit
ARS-416, Conditions of Temporary Limited Employment (Local Reproduction)

CONDITIONS OF TEMPORARY LIMITED EMPLOYMENT

Temporary appointments are limited to 1 year or less and may be extended in 1-year increments up to 4 years at the request of management.

Temporary employment is not covered by Federal adverse action or reduction-in-force procedures, and thus, the appointment may be terminated at any time.

A temporary appointment does not confer civil service status and does not entitle the employee to be noncompetitively promoted, reassigned, or converted to a career or career-conditional appointment.

Temporary employees, with a regularly scheduled tour of duty (i.e., full-time or part-time schedule):

- are immediately eligible to earn sick leave; and
- after being continuously employed for a period of 90 days under one or more appointments, without a break in service, will be credited with annual leave which has accrued over the period.

Temporary employees are not eligible for military leave, regardless of any extensions of the appointment.

All temporary appointments are subject to withholdings for social security coverage.

Temporary employees in General Schedule positions are not eligible for within-grade increases, even when an appointment is extended beyond 1 year. Temporary employees in Federal Wage System positions are eligible for within-grade increases in certain cases.

If a temporary appointment is extended beyond 1 year, the employee may be eligible to enroll in the Federal Employees' Health Benefits (FEHB) Program. The employee, however, will be responsible for paying the **total** cost of the premium, i.e., there is no employer (Federal) contribution. Temporary employees are not eligible for coverage under the Federal Employees' Group Life Insurance (FGLI) Program. **Exception:** If employee is moving from a position in which they have been covered by FEHB, FGLI, and/or retirement provisions, to a temporary position without a break in service, or after a separation of no more than 3 calendar days, FEHB, FGLI, and retirement coverage (as applicable) carry over to the temporary position.

If the temporary employee is a reemployed annuitant, the salary of the temporary position is reduced by the annuity the individual receives.

I certify that I have read and received a copy of this statement. All of the above conditions have been explained to me to my satisfaction.

Signature of Temporary Employee

Date

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